

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT SIMS,

Plaintiff,

Case No.: 2:17-cv-12210

Lower Court Case No.: 17-008490-NI

vs.

ALLSTATE VEHICLE PROPERTY
INSURANCE COMPANY, A Foreign
Corporation, FRANCES WOODWARD,
and JOHN OSBORN,

Defendants.

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**DEFENDANT JOHN OSBORN'S NOTICE OF REMOVAL TO THE
UNITED STATES DISTRICT COURT**

NOW COMES Defendant, John Osborn, by and through his attorneys, LAW
OFFICE OF FRAZIER & GEBAUER by Stephanie Carpenter, and in Support of his
Notice of Removal, states as follows:

1. The basis of the Notice of Removal is pursuant to 28 USC §§ 1332, 1441
and 1446. A copy of this notice has been filed with the Third Circuit Court and all
parties hereto.

2. There is currently pending in the Wayne County Circuit Court, Detroit,
Michigan, a civil action, being case number 17-008490-NI in which Robert Sims is

Plaintiff and Allstate Vehicle And Property Insurance Company, Frances Woodward, and John Osborn are Defendants.

2. Defendant John Osborn was served on June 21, 2017, with the attached Summons and Complaint (**Exhibit A, Complaint**).

3. The action referenced in the lawsuit involves a motor vehicle accident that occurred on or about June 9, 2016 in the City of Detroit, Wayne County, State of Michigan between Defendants Woodward and Osborn.

4. Plaintiff was a passenger in the vehicle driven by Defendant Woodward and claims he suffered injuries as a result of the motor vehicle accident.

5. Plaintiff brings actions against the Defendants for economic and non-economic damages under theories of negligence, First-Party PIP benefits, and Uninsured Motorist Coverage benefits.

6. This action involves a controversy between citizens of different states and countries under 28 USC §1332(a)(1), as noted in the attached traffic report (**Exhibit B**) and upon information and belief:

- (a) The Plaintiff was at the time of the filing of this notice and at all times when the state court action was filed a citizen of the State of Michigan within the meaning of 28 USC §1332;
- (b) Defendant John Osborn is a resident of the Province of Ontario, Country of Canada and resides at 7545 Broderick Road, Windsor, Ontario, Canada N9H-1W9 within the meaning of 28 USC §1332.
- (c) The Defendant John Osborn was operating the vehicle during the course and scope of his employment with FCA Canada, Inc. FCA Canada, Inc. is incorporated in the Province of Ontario, Country of Canada and has its principal place of business at One Riverview Drive, West, Windsor, Ontario, Canada N9A 5K3 within the meaning of 28 USC §1332;.

- (d) The Complaint alleges that Defendant Allstate Vehicle and Property Insurance is a Foreign Corporation.
- (e) That Defendant Frances Woodward is a resident of the City of Naperville, Dupage County, Illinois and resides at 3419 Lapp Lane, Naperville, Illinois 60564 within the meaning of 28 USC §1332.

7. The Defendant believes that the Plaintiff is claiming damages in excess of \$75,000.00, exclusive of interest and costs, because it is alleged that Plaintiff continues to incur medical treatment, replacement services, nursing attendant care services, transportation services, and pain and suffering from the date of the June 9, 2016 accident to the present time.

8. This Court has original subject matter jurisdiction over this action pursuant to 28 USC §1332.

9. This Notice of Removal is being filed within 30 days after receipt by Defendant, John Osborn's copy of the Complaint and Jury Demand setting forth the claim for relief upon which this action is based. Defendant, John Osborn, was served on June 21, 2017 and, accordingly, the time for filing this Notice of Removal under 28 USC §1446 has not expired.

10. Written notice of the filing of this Notice of Removal shall be given to all adverse parties as required by law.

11. A true copy of this Notice of Removal will be filed with the Wayne County Circuit Court, as required by law.

12. By reason of the above, Defendant is entitled to remove this action to the United States District Court, Eastern District pursuant to 28 U.S.C. §1441(b).

WHEREFORE, Defendant, John Osborn, a Canadian resident that was operating a vehicle during the course and scope of his employment for FCA Canada, Inc., a Canadian Corporation, respectfully request that this action be removed from the Wayne County Circuit Court to this Court. Plaintiff is respectfully notified to proceed with no further action in the state court unless or until the case should be remanded by order of said United States District Court.

LAW OFFICE OF FRAZIER & GEBAUER

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Dated: July 6, 2017